



Department of Justice

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**REMARKS AS PREPARED FOR DELIVERY BY ASSISTANT ATTORNEY GENERAL
CHRISTINE VARNEY AT PEN-AND-PAD BRIEFING ON ANTITRUST HEALTH
CARE MATTER**

Washington, D.C.

Thanks so much for being here. I want to take this opportunity to discuss a healthcare enforcement action we have just taken with the Michigan Attorney General's office.

This morning, we filed a civil antitrust lawsuit in U.S. District Court in Michigan against Blue Cross Blue Shield of Michigan alleging that provisions in their agreements with hospitals stifle competition, resulting in higher health insurance prices for consumers in Michigan.

We're challenging Blue Cross Blue Shield's use of Most Favored Nation clauses. In the health care arena, these are generally contractual clauses between health insurance plans and healthcare providers that guarantee that no other insurer can get a better rate than Blue Cross.

In Michigan Blue Cross has used its dominance to impose anticompetitive MFNs in contracts with approximately half of the general acute care hospitals. The complaint alleges that Blue Cross has a 60 percent market share in Michigan and its 2009 revenues were more than 10 billion dollars.

Our lawsuit alleges that the Blue Cross anticompetitive MFNs are used to raise hospital prices to any competing healthcare plans and thus reduces competition for the sale of health insurance and inflates the costs of health care services and insurance.

As a result, consumers in Michigan are paying more for their healthcare services and health insurance. This action is significant in Michigan. However, this action is also significant in a broader sense. These kinds of anticompetitive MFNs affect healthcare delivery and costs in a very fundamental way.

Any time a dominant provider uses anticompetitive agreements, the market suffers. This cannot be allowed in Michigan. And, let me be clear, we will challenge similar anticompetitive behavior anywhere else in the United States.

American consumers deserve affordable healthcare at competitive prices. The Antitrust

Division will vigorously pursue anticompetitive actions that stand in the way of achieving that goal.

Our extensive review of the evidence shows that in Michigan, Blue Cross used MFNs to actually raise costs to its rivals. In some circumstances, Blue Cross agreed to pay higher prices to hospitals in exchange for a promise from the hospitals to charge even higher prices to their competitors.

When a large healthcare plan with a substantial market share, like Blue Cross, imposes an anticompetitive MFN in the marketplace, it harms competition and consumers. It prevents others from entering the marketplace and discourages discounting. The end result -- fewer options and higher prices.

We are seeking to stop these anticompetitive practices as quickly as possible so that consumers in Michigan get affordable health care.

We will continue to monitor this important industry. If we uncover other health insurers with market power that use anticompetitive MFNs to thwart competition, we will challenge them.

I want to recognize the hard work of our deputies Molly Boast and Carl Shapiro and the dedicated staff led by Josh Soven.

Thank you. I am happy to take any questions you might have.

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